

REMARKS

Applicant respectfully declines now to cancel withdrawn claims 47-49 or 59-61. The pending Office Action is not a Final Action, nor are any claims yet allowed, so cancelation of the withdrawn claims is premature. Applicant will cancel these claims at the appropriate time in prosecution.

The Examiner rejected claims 25-29, 34-46, and 50-58 under 35 U.S.C. § 103(a) over Saito (U.S. 2002/0044049) in view of Ogura (U.S. 2004/0186687). The Examiner objected to claims 30-33 as being dependent upon a rejected claim, but stated that claims 30-33 would be allowable if amended to read in independent form, including the features of the respective base claims and any intervening claims. Applicant appreciates the indication of allowable subject matter in these claims, but submits that it is premature to amend claims 30-33 to be independent claims until after the Examiner considers the present amendments and arguments

Applicant respectfully traverses the rejection of claims 25-29, 34-46, and 50-58 under § 103(a) over Saito in view of Ogura. Applicant has amended claims 25, 40, 44, 50, and 55 to recite that the vehicle requests an ECU of the device that has the failure to provide details regarding the failure and proceeds to collect the details regarding the failure from the ECU of the device that has the failure for transmission in a second failure information which specifies the collected details regarding the failure. This capability of the ECU is disclosed in paragraph [0095] of the specification, and is not new matter. The Examiner argues that Ogura discloses “transmitting the second failure information from the vehicle to the communications center.” Office Action at 3. However, this is not an accurate characterization of the teachings of Ogura. Ogura

discloses transmitting a signal related to a failure of a working machine to an information center. The information center identifies a location of the failure based upon the signal. The present claims, in contrast, recite an ECU of a device that has a failure providing details regarding the failure. This ECU, not the information center, identifies location of the failure before the transmission of second failure information. The present claimed system, therefore, transmits limited information to the center, whereas Ogura must transmit all of the related signal of the failure. There is no disclosure or suggestion in Saito or Ogura to include “request[ing] an ECU of the device that has the failure to provide details regarding the failure and proceed[ing] to collect the details regarding the failure from the ECU of the device that has the failure for transmission in a second failure information which specifies the collected details regarding the failure.” Therefore, Saito and Ogura fail to establish a *prima facie* case of obviousness, and the present claims are not obvious under §103(a) over the combination of Saito and Ogura.

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration of this application and the timely allowance of the pending claims.

Attorney Docket No.: 07057.0116-00000
Application No.: 10/565,781

Please grant any extensions of time required to enter this response and charge
any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: December 16, 2008

By: JW Edm
James W. Edmondson
Reg. No. 33,871
(202) 408-4000